

HOUSE BILL 2717

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 21, Part 3; Title 9, Chapter 8, Part 3; Title 20, Chapter 10, Part 1; Title 29, Chapter 26, Part 2; Title 29, Chapter 34; Title 45, Chapter 20, Part 1; Title 47, Chapter 18, Part 21; Title 49, Chapter 6, Part 40; Title 49, Chapter 6, Part 20; Title 65, Chapter 35, Part 1; Title 68, Chapter 212, Part 2 and Title 71, Chapter 6, Part 1, relative to punitive damages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, is amended by adding the following language as a new part 4:

§ 29-34-401.

(a) Notwithstanding any other provision of law, in any civil action, the total amount awarded for punitive damages against each defendant found to be liable shall be determined by the trier of fact.

(b) In no event shall the total amount awarded for punitive damages exceed three hundred thousand dollars (\$300,000). The jury shall not be advised of the limitation prescribed by this section.

(c) If a jury returns a verdict for punitive damages in excess of the maximum amount specified in this section, the judge shall reduce the award and enter judgment for such damages in the maximum amount provided by this section.

SECTION 2. Tennessee Code Annotated, Section 4-21-311, is amended by adding the following language as a new, appropriately designated subsection:

( ) Any award of punitive damages recovered under this chapter shall comply with the limitations set forth in § 29-34-401.

SECTION 3. Tennessee Code Annotated, Section 20-10-101(a)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

In cases where, in the opinion of the trial judge, a jury verdict is not adequate to compensate the plaintiff or plaintiffs in compensatory damages or punitive damages, the trial judge may suggest an additur in such amount or amounts as the trial judge deems proper to the compensatory or punitive damages awarded by the jury, or both such classes of damages. If the trial judge suggests an additur to the punitive damages, then the sum of the amount awarded by the jury verdict and the suggested additur shall comply with § 29-34-401.

SECTION 4. Tennessee Code Annotated, Section 45-20-107(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) Punitive damages may be awarded where the court finds that the violation is malicious or reckless. Punitive damages shall:

(1) Be limited to three (3) times the actual damages and the amount of all finance charges and fees paid by the borrower, exclusive of costs and reasonable attorney's fees; and

(2) Not exceed the amount prescribed in § 29-34-401.

SECTION 5. Tennessee Code Annotated, Section 47-18-2108(o)(2), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(2) An amount of punitive damages that the court may allow in a private right of action or other nongovernmental action; provided, however, that such amount of punitive damages complies with § 29-34-401; and

SECTION 6. Tennessee Code Annotated, Section 49-6-2008(d), is amended by deleting the subsection in its entirety and by substituting instead the following:

(d) In addition to any criminal penalty provided by law, there is created a civil cause of action for an intentional assault upon educational personnel by any person during school hours or during school functions, if the parties are on school grounds or in vehicles owned, leased or under contract by the LEA and used for transporting students or faculty. A person who commits such assault shall be liable to the victim for all damages resulting from the assault, including compensatory and punitive damages.

Upon prevailing, a victim shall be entitled to:

- (1) Punitive damages in an amount equal to or lesser than any such amount permitted pursuant to § 29-34-401; and
- (2) Reasonable attorney fees and costs.

SECTION 7. Tennessee Code Annotated, Section 49-6-4016, is amended by adding the following to the end of such section:

; provided, however, that any punitive damages awarded shall be subject to the limitations set forth in § 29-34-401.

SECTION 8. Tennessee Code Annotated, Section 65-35-104(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) The damages shall be three (3) times the utility's estimated loss of revenue, plus reasonable attorneys' fees and costs associated with such loss; provided, however, that any punitive damages shall be awarded in accordance with the limitations set forth in § 29-34-401.

SECTION 9. Tennessee Code Annotated, Section 68-212-207(c), is amended by deleting the subsection in its entirety and by substituting instead the following:

(c) Any liable party who fails without sufficient cause to properly provide for removal of hazardous substances or remedial action upon order of the commissioner pursuant to this part may be liable to the state for punitive damages in an amount equal to one hundred fifty percent (150%) of the amount of any costs incurred by the fund as a result of such failure to take proper action. The commissioner shall recover the punitive damages in an action commenced under subsection (b) or in a separate civil action. Such punitive damages shall be in addition to any costs recovered from such liable party pursuant to this part and shall be excluded from the limitations set forth in § 29-34-401. Any punitive damages awarded pursuant to this subsection shall be deposited in the fund.

SECTION 10. Tennessee Code Annotated, Section 71-6-120(e), is amended by deleting the subsection in its entirety and by substituting instead the following:

(e) In addition to the damages described in (d), a defendant may also be found liable for punitive damages in accordance with applicable common law standards; provided, however, that punitive damages shall be subject to the limitations set forth in § 29-34-401.

SECTION 11. This act shall apply to all awards of punitive damages in civil actions except for those civil actions that are expressly excluded.

SECTION 12. This act shall take effect July 1, 2010, the public welfare requiring it, and shall apply to all civil actions filed on or after such date.